

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

KALEB FRANKS,

Defendant.

Case No. 1:20-CR-183

Hon. Robert J. Jonker
Chief U.S. District Judge

**UNOPPOSED MOTION TO MODIFY PROTECTIVE ORDER AND
MEMORANDUM IN SUPPORT**

NOW COMES the Defendant, Kaleb Franks, by and through his attorney, Scott Graham, and moves to modify the protective order (entered in this matter at ECF No. 107, PageID # 615-16). In support of this motion, Mr. Franks offers this memorandum of law.

Legal Discussion

With regard to discovery in this case, Mr. Franks finds himself in the same situation as Mr. Croft, Mr. Harris, and Mr. Caserta. Mr. Croft, Mr. Harris, and Mr. Caserta have filed unopposed motions to modify the protective order in this case. *See* RE. 174: Croft Motion to Modify, PageID # 982-83; RE. 185: Caserta Motion to Modify, PageID # 997-98; RE. 188: Harris Motion to Modify, PageID # 1004-05. These men have also filed proposed modified protective orders. *See, e.g.*, RE. 174-1: Proposed Modified Protective Order, PageID # 984-85.

These materials relate to the protective order in this matter, which the Court granted on December 18, 2020, after the government filed an unopposed motion to obtain that order. *See* RE. 107: Protective Order, PageID # 615-16. At that time, the defense did not know, and could not have known, the scope and nature of the discovery the government would produce. Since entry of that protective order, the government has provided the defense with hundreds of hours of audio and video recordings, and tens of thousands of pages of written discovery.

To prepare for trial and assist with his defense, Mr. Franks wishes to review these items of discovery. The current protective order provides that defense counsel cannot leave “unredacted copies of discovery materials” with Mr. Franks while he is detained in pretrial custody. *See* RE. 107: Protective Order, PageID # 615.

Given the voluminous discovery involved, however, counsel wishes to provide a laptop computer with an encrypted copy of the discovery to Mr. Franks for his review while in pretrial detention.

Counsel has discussed this issue with the United States Marshals Service and the Newaygo County Jail, both of which are willing and able to accommodate this request. This approach will be the most efficient and will save the United States taxpayers many thousands of dollars that would be required if counsel had to display each item of discovery to Mr. Franks.

This Court, of course, has the authority to modify a protective order at any time. *See, e.g.*, Fed. R. Crim. P. 16(d)(1). Additionally, undersigned counsel has discussed this matter with counsel for the United States, and the prosecution does not oppose the proposed modified protective order.

WHEREFORE, Defendant Franks respectfully requests the Court enter the proposed protective order permitting him to possess the discovery materials in pretrial custody, subject to the restrictions in the proposed order.

Date: June 10, 2021

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